

SAVE OUR SOUND

alliance to protect nantucket sound

April 1, 2014

Mr. Curt Spalding
Regional Administrator
U.S. Environmental Protection Agency – Region 1
5 Post Office Square - Suite 100
Boston, MA 02109-3912

RECEIVED

APR - 3 2014

OFFICE OF THE REGIONAL ADMINISTRATOR

Re: Cape Wind Associates, LLC EPA Permit Number OCS-R1-01

Dear Administrator Spalding:

This letter relates to permit number OCS-R1-01 ("Permit"), issued to Cape Wind Associates, LLC ("Cape Wind") on January 7, 2011. The Alliance to Protect Nantucket Sound ("the Alliance") understands that by letter to EPA dated March 7, 2014 Cape Wind applied for an extension of the Phase 1 construction period defined in the permit. EPA must deny Cape Wind's request for an extension of the Phase 1 period and declare the Permit invalid because the deadline by which Cape Wind was required to "commence construction" on this project has passed.

Under the terms of the Permit and the applicable regulations, the Permit is now invalid. The Permit states that "[t]his permit becomes invalid if Cape Wind does not commence construction within 18 months after the permit's effective date." Permit OCS-R1-01 at 1. Similarly, the applicable regulations state that "[a]n approval to construct shall become invalid if construction is not commenced within 18 months after receipt of such approval, if construction is discontinued for a period of 18 months or more, or if construction is not completed within a reasonable time." 40 C.F.R. 55.6(b)(4).

Cape Wind applied for the Permit on December 17, 2008 and submitted several revisions to its application between 2008 and 2010. EPA published a draft Permit on June 10, 2010 and issued the final Permit on January 7, 2011. The Alliance petitioned the Environmental Appeals Board ("EAB"), asking it to review EPA's issuance of the Permit but the EAB denied its petition. *See In re Cape Wind Assoc., LLC*, OCS Appeal No. 11-01 (EAB, May 20, 2011). Following the EAB decision, EPA issued its final decision on the Permit on June 2, 2011, indicating that the Permit would become effective that day.

Cape Wind was required to "commence construction" of the project by December 2, 2012, 18 months after the Permit's June 2, 2011 effective date. By December 2, 2012, Cape Wind had not undertaken any activities which would satisfy its obligation to "commence construction" of the project. Even today, nearly three years after the Permit became effective and over a year after the Permit expired by its own terms, Cape Wind has still not "commenced construction" of the project.

4 Barnstable Road, Hyannis, Massachusetts 02601
□ 508-775-9767 □ Fax: 508-775-9725

While Cape Wind has conducted pre-construction surveys and other preliminary information gathering activities, it has not yet begun actual construction. Cape Wind acknowledged this in its March 7, 2014 letter: “while Cape Wind Associates has begun its pre-construction work under Phase 1 of the permit, *actual construction* has been delayed...” Cape Wind Letter to Mr. Curtis Spalding, March 7, 2014 at 2 (emphasis added). Preliminary activities and other pre-construction efforts cannot satisfy Cape Wind’s obligation to “commence construction.”

The Permit does not define “commence construction” but states that “[t]erms not otherwise defined in this permit have the meaning assigned to them in the referenced Clean Air Act provisions and EPA regulations...” Permit OCS-R1-01 at 3. The regulations in Part 55 do not explicitly define “commence construction” but similar regulations in Part 52 define “commence construction” as:

Commence as applied to construction of a major stationary source or major modification means that the owner or operator has all necessary preconstruction approvals or permits and either has:

- (i) Begun, or caused to begin, *a continuous program of actual on-site construction* of the source, to be completed within a reasonable time; or
- (ii) Entered into binding agreements or contractual obligations, which cannot be cancelled or modified without substantial loss to the owner or operator, to undertake a program of actual construction of the source to be completed within a reasonable time.” 40 C.F.R. 52.21(b)(9) (emphasis added).

These regulations further define “begin actual construction” as:

“*Begin actual construction* means, in general, initiation of physical on-site construction activities on an emissions unit which are of a permanent nature. Such activities include, but are not limited to, installation of building supports and foundations, laying underground pipework and construction of permanent storage structures. With respect to a change in method of operations, this term refers to those on-site activities other than preparatory activities which mark the initiation of the change.” *Id.* 52.21(b)(11).

From these regulations, it is clear that Cape Wind did not satisfy its obligation to “commence construction” by December 2, 2012. To have “commenced construction” under the “physical construction” branch of the applicability test, Cape Wind must 1) have begun *actual construction*, 2) the construction must have been *continuous*, and 3) the construction must have been completed within a *reasonable time*. By its own admission, Cape Wind cannot satisfy these requirements.

Cape Wind has not begun *actual construction*. Only activities that are *permanent* construction activities can satisfy Cape Wind's obligation to "commence construction". *Sierra Club v. Franklin County Power of Illinois, LLC*, 546 F.3d 918, 930 (7th Cir. 2008). In *Sierra Club*, the Court considered whether a company's construction activities were sufficient to satisfy its obligation to "commence construction" within 18 months of the effective date of its Part 52 permit and emphasized that construction activities must be permanent in order to satisfy the obligation to "commence construction". *Id.* The Court found that the company had not satisfied its obligation to "commence construction" in part because "the Company did not engage in any kind of permanent construction activity at all...the Company had laid no foundation and constructed no building supports, underground pipework, or permanent storage structures." *Id.*

Under these standards, Cape Wind did not satisfy its obligation to "commence construction" by December 2, 2012. By that date, Cape Wind had not commenced any permanent construction activities. It had not, and still has not, installed any building supports, prepared any foundations, laid any cables, or performed any other physical, permanent construction activities. Cape Wind's activities to date have involved pre-construction permitting, surveying, and other preparatory activities but none of these can be considered "actual construction" sufficient to satisfy its obligation to "commence construction" by December 2, 2012.

In fact, by the explicit terms of its lease with the Bureau of Ocean Energy Management ("BOEM"), Cape Wind *cannot* begin construction until it has finished conducting high resolution geophysical and geotechnical surveys: "Prior to the commencement of construction or any bottom-disturbing activities related to construction, the Lessee shall undertake a survey that meets the criteria of this section." BOEMRE Form MMS-0046 (July 2010). Cape Wind has not completed the pre-construction surveys BOEM has required Cape Wind to conduct before commencing construction. In fact, Cape Wind has applied to the National Marine Fisheries Service ("NMFS") for an incidental harassment authorization ("IHA") under the Marine Mammal Protection Act to undertake those activities. 79 Fed. Reg. 6167 (Feb. 3, 2014). As explained in the Cape Wind IHA application, it is seeking authorization for "continuation of previously authorized *pre-construction* High Resolution Geophysical (HRG) survey activities...." Cape Wind Renewal Application for Incidental Harassment Authorization, December 19, 2013 at 5. Cape Wind therefore asks NMFS for a new IHA to "complete the remaining 80% of the scope of work in 2013." *Id.* NMFS agrees that construction has not commenced, stating: "[s]urvey activities are necessary *prior to construction*." 79 Fed. Reg. 6168. In addition, Cape Wind states that no survey work including activities that impact the seafloor (i.e., result in "attachment") will occur during the remaining 80% of the survey work. *Id.* at 6171.

To satisfy the construction requirements of the Permit, Cape Wind would have had to violate the terms of its lease with BOEM.

Moreover, not only has Cape Wind not commenced construction, nothing that it has done to date has either been continuous or completed in a *reasonable time*. The only work that Cape Wind has done was a small portion of the pre-construction surveys BOEM has required it to conduct

4 Barnstable Road, Hyannis, Massachusetts 02601
□ 508-775-9767 □ Fax: 508-775-9725

before commencing construction, and that work has been intermittent. Many years have elapsed since Cape Wind applied for the Permit in 2008 and it is clear that actual construction will not be initiated, let alone completed, in the foreseeable future.

Any argument that Cape Wind's performance of an OCS Attachment satisfies its obligation to "commence construction" is unpersuasive. While the Permit defines the "Phase 1 Start Date" as the date on which a vessel or barge associated with the project performs an OCS Attachment, it does not follow that this activity constitutes "commencing construction." Performing an OCS Attachment is neither a permanent, physical construction activity nor a continuous activity. Rather, performing an OCS Attachment is a pre-construction, non-permanent, episodic activity that does not satisfy the definition of "commence construction."

Further, the Permit clearly states that terms not defined in the Permit have the meaning assigned to them in the referenced Clean Air Act provisions and EPA regulations. Permit OCS-R1-01 at 3. Therefore, the definition of "commence construction" provided in the Clean Air Act applies. As explained above, Cape Wind has not satisfied its obligation to "commence construction" as it is defined in the Clean Air Act.

Cape Wind also has not satisfied the alternate definition of "commence construction," requiring a permittee to have entered into certain binding agreements or contractual obligations. 40 C.F.R. 52.21(b)(9)(ii). Cape Wind acknowledged that in its March 7, 2014 letter when it stated that the ongoing litigation of this project has prevented it from finalizing necessary financing agreements. Cape Wind Letter to Mr. Curtis Spalding, March 7, 2014 at 2.

The 18-month time limit included in these types of permits ensures that the permittee does not hold on to the permit for an unreasonably long period of time and prevents the permittee from constructing a project under outdated permitting requirements.

As more than four years have passed since Cape Wind submitted its application, the facts and data on which the Permit was based have changed and the Permit terms have become outdated. As the Alliance explained in its initial appeal of the Permit, the staging area that Cape Wind is using to construct the project has changed since Cape Wind initially submitted its permit application. In particular, significant additional information is now available to confirm that Cape Wind is using New Bedford Massachusetts, rather than Quonset, Rhode Island as the staging area for this project. See Attachment A. Such a shift in the staging area would fundamentally change the air quality analysis required for the project. Declaring the permit invalid (as it is) would not by itself forbid future construction of the permit, but it would require a new round of public comment and agency analysis to consider these important issues before the permit could be reissued.

These changed circumstances, combined with the many years that have elapsed since the Permit conditions were last considered, necessitate a new permit decision procedure. The public comment process benefits both citizens, by providing them a means by which to voice their concerns, and agencies, by providing them with relevant information to which they might not

4 Barnstable Road, Hyannis, Massachusetts 02601
□ 508-775-9767 □ Fax: 508-775-9725

Curt Spalding
April 1, 2014
Page 5 of 5

otherwise have access. The public comment process is a valuable way to inform agency decisionmaking and should be utilized to its full extent. Considering the overwhelming public interest in this project and the fact that the last time the public had an opportunity to comment on this project was nearly four years ago, EPA should welcome additional comments from interested parties.

Further, the Alliance would like to remind EPA of the President's directive regarding government transparency, "executive branch agencies should act promptly and in a spirit of cooperation, recognizing that such agencies are servants of the public. All agencies should adopt a presumption in favor of disclosure..." Freedom of Information Act, Memorandum for the Heads of Executive Departments and Agencies, 74 Fed. Reg. 4683 (Jan. 21, 2009). The EPA has a responsibility to meet the obligations of transparency, participation and collaboration. Opening any future decisions related to Cape Wind's Permit furthers these goals.

Because Cape Wind did not "commence construction" within 18 months of the effective date of the Permit, EPA must deny Cape Wind's request to extend the Phase 1 period and must find the Permit invalid. Further, before making any future decisions related to this Permit, EPA should open those decisions to public notice and comment.

Please feel free to contact me if you have any questions.

Sincerely,



Audra Parker
President and CEO

The Honorable Sally Jewell, Secretary of the Interior

4 Barnstable Road, Hyannis, Massachusetts 02601
□ 508-775-9767 □ Fax: 508-775-9725

Attachment A

(Please see attached disc for documents that correspond to the timeline.)

Documents Pertaining to New Bedford on the Cape Wind Timeline from January 2011 to Present

- 1/07/11 U.S. Environmental Protection Agency issues Outer Continental Shelf Air Permit to Cape Wind Associates (CWA) NO. OCS-R1-)1
- 1/07/11 Cape Wind press release:
- EPA issues last permit for CWA under Clean Air Act; like NMFS BiOp and Corps permit, uses Quonset, not New Bedford as staging area for project.
- 2/24/11 New Bedford Port Director send an email to other New Bedford officials relating to a phone conversation with CWA in which CWA stated although the COP would refer to Quonset, that the plan was still to use New Bedford. The email explains that the reason for doing so is to avoid more EPA review.
- 3/9/11 Alliance COP comments:
- “New Bedford. Cape Wind and the Governor of Massachusetts jointly announced on October 21, 2010, that the staging area for the proposed Cape Wind energy plant would change from Quonset, Rhode Island, to New Bedford, Massachusetts. That change is very significant for the federal EIS review as there are significant consequences associated with that new location with regard to air pollution, water pollution, wildlife, historic and cultural resources (e.g., all New Bedford historic properties must now be considered under Section 106 of the National Historic Preservation Act (NHPA)), navigation, cost, and other factors. The COP does not directly address this change, which not only alters the effects of the Cape Wind project, but also requires more extensive evaluation as the New Bedford location will serve as the basis for operations for other projects as well. Moreover, the Governor’s promotion of New Bedford as a multi-project staging area underscores the insufficiency of the cumulative effects analysis, which currently treats other developments as speculative. The change to New Bedford alone requires a supplemental EIS. New Bedford information is set forth.
- Clean Air Act. As APNS argued in its February 9, 2011, petition to the Environmental Protection Agency (EPA) Environmental Appeals Board (EAB), , the air quality effects analysis for the project is no longer accurate, inlight of the change in the location of the staging area from Quonset Point to New Bedford. As noted above, CWA will be using New Bedford, Massachusetts, rather than Quonset Point, as the staging terminal for construction activities.
- Since the greatest emissions from the project are those related to the construction stage, relocation of construction emissions fundamentally changes air quality impacts, necessitating a new review.”

3/9/11

NMFS comments on Cape Wind COP:

“As identified and analyzed within the PETS, the proposed location for the shoreside staging area for the construction of the Cape Wind project is Quonset, Rhode Island. As further discussed in the FE IS, the facility at Quonset has been previously developed and additional impacts resulting from the use of the facility would be minimal. Since the publication of the PETS, the Commonwealth of Massachusetts has expressed interest in developing a multi-purpose marine facility at South Terminal in New Bedford, MA, with a near-term goal of attracting offshore wind initiatives to utilize the site for shoreside construction staging. This initiative to attract offshore renewable energy to New Bedford was announced during an October 20, 2010, public press conference and has been highlighted in multiple news sources. Since the facility in New Bedford, once established, has the reasonable potential to serve as a shoreside staging area for the Cape Wind Project, NMFS believes that this may be a reasonably foreseeable future action under NEPA. If so, any impacts associated with the New Bedford site should be considered within the cumulative impact analysis within the EA. Furthermore, the EA should discuss the environmental assessment process associated with amending an approved COP should the proposed shoreside staging area be relocated to New Bedford.”

3/9/11

USCG email to MMS:

“It seems that the exact location of the staging area is still not settled. Although the COP says that Cape Wind will stage from Quonset unless New Bedford is ‘ready’ when Cape Wind is prepared to begin construction, indications from Cape Wind and New Bedford personnel are that New Bedford is the only site being considered. (And although I haven’t asked, the complete lack of discussion of hosting Cape Wind by our contacts at Quonset would seem to suggest that Quonset is no longer in the picture as well.) Obviously, when that’s settled, and if it should be New Bedford, might need an EA there. We met with Cape Wind regarding ship transit routes from New Bedford to Nantucket Sound and advised that transiting through Quick’s Hole in the Elizabeth islands was likely acceptable, pending the exact dimensions and descriptions of the vessels to be used.”

3/17/11

APNS letter to EPA with comments on the Cape Wind COP:

“In our petition to the EPA Environmental Appeals Board, the Alliance pointed out that the Region’s analysis of the air quality effects of the construction of Cape Wind were based on representations from the applicant about the site for the construction support functions that are no longer tenable. EPA’s analysis simply accepted the Environmental Impact Statement (EIS) written by the Minerals Management Service (MMS). The MMS EIS was based on representations by Cape Wind regarding the location of various elements of the project, such as the construction support functions. Among

these representations was that the construction support would be based in Quonset Point, Rhode Island.

But, as the Alliance pointed out in its petition to the Environmental Appeals Board, that representation is no longer operative. In our petition, we cited a January 7, 2011 press release, in which Cape Wind stated that it will be using New Bedford, Massachusetts, not Quonset Point, Rhode Island, as the staging terminal for construction activities. Since the greatest emissions from the project are related to the construction stage, such a relocation of construction emissions renders the air quality analysis in the MMS' EIS invalid. In particular, whether the construction stage emissions are located in Rhode Island or Massachusetts could substantially affect the air quality analysis and the emission control and offset requirements applicable to Cape Wind and other emission sources in Massachusetts and Rhode Island. The petitioners have therefore asked the Environmental Appeals Board that the permit decision be remanded, to be redone in light of the correct configuration of the project

We are aware of a letter from Cape Wind to the Director of the Region I Office of Ecosystem Protection, dated November 17, 2010, in which the applicant argues that there has been no change in the proposed project that would require modification of EPA's review of the project. However, in the next paragraph the applicant confirms the contingent nature of its commitment to use Quonset Point as the staging area for construction of the project:

"In the event that [the New Bedford Multi-Purpose Marine Terminal] were to become both completed and available on a timely basis and CWA proposes to use it for all or a substantial part of its staging requirements, Cape Wind . . . [would] make appropriate regulatory findings at that time."

The recent release of the COP, only further demonstrates that Cape Wind continues to try to keep its options open while avoiding a new air quality analysis.

"At this time, however, it is unclear whether such [New Bedford Multi-Purpose Marine Commerce] Terminal would be both developed and available on a timeline that would meet the construction schedule for CWA set forth in this COP. *Therefore this COP is submitted with Quonset Point serving as the Project's staging area, and BOEMRE should review this filing on that basis. In the event, however, that the New Bedford Terminal does become available and CWA proposed its utilization for all or a substantial portion of the Project's staging requirements, CWA would submit a notice of project change and seek an appropriate and corresponding COP modification at that time.*"

COP at 97-98 (February 11, 2011) [Emphasis supplied]. Elsewhere the COP states clearly that the “Construction Staging Area” will be “located at Quonset Point, North Kingston, RI, or New Bedford Harbor, New Bedford, MA.” Safety Management System at 4.1 (Page 10). [emphasis supplied]

The Environmental Appeals Board has made it very clear that a permittee must specify precisely the project to be built before a permitting authority may approve a PSD permit. *See, e.g., In re Indeck-Elwood, LLC*, 13 EAD 126, 148 (E.A.B. 2006) and cases cited therein (Condition inserted into permit allowing permittee to alter size of proposed unit “clearly changes the substance of the PSD permit, allowing for construction of a facility that is physically different from the one permitted, and which may potentially have different emission characteristics.”) *See also In re ConocoPhillips Co.*, 13 EAD 768 (E.A.B. 2008).

In this case, Cape Wind continues to admit that it has not committed itself to the Quonset Point construction staging location, while trying to hold on to an EPA permit with an air quality analysis based on the assumption that Quonset Point has been chosen irrevocably. An air quality analysis based on such an incorrect assumption “defeats the fundamental purposed of the PSD program” in three ways: (1) it prevents the permitting agency from fulfilling its “responsibility to conduct source specific BACT review;” (2) it “defeats the fundamental public participation purpose of the PSD program;” and (3) it deprives the public of the assurance that the permitting agency “has a credible model of regional air impacts.” *Indeck, supra*, at 146.

The Region cannot make a credible assessment of whether the emissions from construction of the Cape Wind project are consistent with attainment of the National Ambient Air Quality Standards and the provisions of the relevant State Implementation Plans of Massachusetts and Rhode Island without knowing where the construction support activities will be located. For this reason, we strongly urge the Region to suspend and reconsider the Cape Wind permit until Cape Wind is prepared to commit to a specific configuration for the project, and that the Region then undertakes its own transparent air quality analysis based on that commitment regarding the location of construction staging.

According to the timetable in the COP, there is ample time for such a reconsideration of the permit. As indicated in Table 1.4-1 of the COP, Cape Wind has a number of reviews by federal agencies to complete before it can go forward with construction, which will preclude commencement of construction until well into 2012. For example, according to Table 1.4-1, Cape Wind expects to obtain a federal permit to band birds in the second or third quarter of this year. Elsewhere in the COP, the applicant admits that pre-construction avian work – which cannot start without the state and federal permits for bird banding – is anticipated to take approximately one year before installation of

wind turbine generators. In short, possible construction of Cape Wind is still far enough away to allow time for reconsideration and careful analysis of the air quality effects of the actual configuration of the project.”

- 4/18/11 In a letter to the Department of the Interior, the Alliance to Protect Nantucket Sound (APNS) senses decision on COP is coming and files last minute letter raising objections, including the New Bedford issue. Bromwich replies on June 15, 2011 with court objection.
- 4/20/11 Email from Danny Romanowicz from the Building Commission for New Bedford to Ron Durgin from AZ: “I understand that the Fed Court approved of the CWA permits...is NB still on track to be the shipping point?” Dan replies, “Yes, we are.”
- 4/20/11 Cape Cod Times article:
- “City and state officials said Tuesday they expect to break ground this summer on the \$35 million port facility, which will be used to support the installation of Cape Wind and other offshore wind projects.
- Construction of the New Bedford Marine Commerce Terminal, which will be built on about 20 acres in the South Terminal area, is expected to be completed within a year, the officials said.”
- 5/23/11 EPA’s Environmental Appeals Board in Washington, DC denied the appeal of the Cape Wind air permit that had been filed by the APNS and the Wampanoag Tribe of Gay Head (Aquinnah) on 5/20/11.
- EPA Statement from EPA Email dated 5/23/11:
- “The appeal raised two issues: (1) whether the Region has erred in determining that emissions from the project’s construction would comply with the new 1-hour National Ambient Air Quality Standards for the nitrogen dioxide and sulfur dioxide, and (2) whether a potential change to Cape Wind’s construction plan (involving a potential change in staging location from Quonset to New Bedford, Massachusetts necessitated an additional analysis and reconsideration of the Region’s decision. The Board rejected the petitioners’ arguments on both issues.”
- 6/2/11 EPS issues final air permit to Cape Wind. “Therefore, the region has determined and hereby notifies you that all conditions of the permit will take effect beginning today.”
- 6/15/11 Bromwich refuses to consider issues raised in APNS letter of 4/18/11 before COP decision.

- 10/24/11 Boston Herald article:
- “Cape Wind’s financial shortcomings have short-circuited New Bedford’s marine commerce terminal, a state funded development that has yet to materialize on the Whaling City waterfront a full year after Gov. Deval Patrick trumpeted the job-boosting project with pre-election fanfare.
- Lang said the \$35 million port terminal, expected to create 300 construction jobs and hundreds more permanent jobs, lost steam in May when the DOE put on hold a loan guarantee for \$2.5 billion Cape Wind project, which has yet to secure private financing or a buyer for half of its power output.”
- 12/29/11 New Bedford Standard Times article:
- SJC Cape wind Ruling gives New Bedford boost in its efforts in becoming a major staging area for off shore wind industry. New Bedford has not been named the official staging area Quonset Point is the staging area on record.
- 01/18/12 Commonwealth of Massachusetts Environmental Protection Agency submits to the U.S. Environmental Protection Agency a 6000 page report “State Enhanced Remedy in New Bedford, South Terminal” for the Super Fund site in New Bedford that will cost tax payers over \$35 million and total of \$51 Million. Cape Wind is scheduled to be the first project to use this site for staging. This report criticizes the Quonset, RI site, saying the site is challenged and New Bedford is makes more sense. (Clean Air Permit is for Quonset, RI) and the New Bedford site needs to be reviewed, if to be considered.
- Cape Wind is a very import part of this proposal to clean up the New Bedford Harbor and to build the South Terminal, these points are from the MA EPA Schedule K Business Plan
- “The proposed development program for a multi-use South Terminal will service Cape Wind 130 wind turbine project’s assembly and installation phase and possibly foster additional local development.
 - This section of the business plan identifies market opportunities and prospects for the new South terminal facility which offer reasonably foreseeable cargo options for which the facility can be used after the completion of the proposed Cape Wind (and/or other) offshore renewable energy projects.
 - During the assembly/installation phase of Cape Wind’s offshore wind farm development the HDC is expected to receive at least \$1.5 million per year net of operating or maintenance costs for the developer’s use of the facility (\$4.5 million over the three year estimated construction period.)
- 1/24/12 APNS submits letter to Secretary Salazar to ask for a formal reconsideration of the determination that the Cape Wind project conforms with Clean Air Act

requirements.

“As explained in the Alliance 10/21/11 letter, the FCD assumed that the staging area for construction of the proposed project would be in Rhode Island. New information has made it clear, however, that Cape Wind has changed the staging area to New Bedford, Massachusetts. This change in location validates the emissions calculations and mitigating measures considered in the FCD.”

2/17/12

South Coast Today article:

New Bedford gets boost from NStar’s purchase of 27.5% pf CWA. Still no official disclosure that New Bedford will be the new staging area for CWA.

3/01/12

New Bedford Standard Times article:

Governor Patrick’s administration budgets \$35 million for commerce terminal in New Bedford. “Mayor Jon Mitchell welcomed the news, but said that he had not received any information on a start date or when the money would be made available. ‘The project’s timetable depends on Cape Wind.’ He said, ‘I think the administrations’ (recent) insistence that Nstar purchase power from them is a significant development.”

04/11/12

APNS letter to Secretary Salazar requesting that there should be a formal reconsideration of the determination of whether the Cape Wind project conforms to Clean Air Act requirements. This is the third letter to the Secretary on the Final Conformity Determination and the fact that New Bedford is being touted to be the staging site, when Quonset, RI was the staging location for the permit.

04/15/12

Article in New Bedford Times on 4/15/12 highlights the New Bedford’s jewel (South Terminal) as compared to the casino possibilities. “Not only would the expanded terminal make New Bedford the likely staging area for the Cape Wind offshore wind turbine project, which was all but assured by the merger of the Nstar and Northeast Utilities power giants. It would make the port the centerpiece of a new offshore wind industry stretching from the Canadian Maritimes south along the Atlantic Coast.”

04/20/12

Article in New Bedford Times (South Coast Today) on the environmental concerns with the dredging project for the new South Terminal and the EPA review that is expected to have a final response in a few months. CAD cell containment is being questioned as the right way to handle the harbor clean-up. Opposition wants this project and 3 other prior projects removed from the harbor and properly dispose of the hazardous contamination (that will cost 10 times per cubic yard).

- 05/01/12 Article in the New Bedford Standard Times (South Coast Today) announces summit at the New Bedford Whaling Museum to prepare workers for the jobs in offshore renewable energy. Sponsors are the Marine Renewable Energy Center at UMass Dartmouth and the Mass Clean Energy Center. Executive Director John Miller states, "The future is here. Cape Wind is expecting to have something in the water by the end of the year. We'll have panel that discuss what's going on in Europe, the needs of the industry and what employers want to see."
- 08/01/12 Boston Globe article on New Bedford's plans to develop a 28 acre waterfront property using \$35 million of state funds. "city officials plan to convert the site into a bustling hub with hundreds of workers assembling giant wind turbines and loading them on ships bound for Cape Wind, the Nantucket wind farm, and eventually for even larger offshore wind energy developments."
- 8/24/12 Cape Cod Times article:
- "Cape Wind has chosen Falmouth as the base for its future operations and maintenance facility....
- The company has already chosen New Bedford as the staging area for its construction, but it needs to locate workers to support the wind farm's operation closer to the project's leasing area in federal waters."
- 8/24/12 New Bedford Standard Times article on the update on South Terminal:
- "The project is expected to give Massachusetts a competitive advantage in the emerging wind energy industry and create thousands of jobs in the city. Cape Wind has said it will use South Terminal if it is ready when their project begins, but has not released a specific deadline for the city."
- 8/29/12 Cape Cod Times article on Cape Wind starting the G& G surveys this summer:
- "The barges' departure from New Bedford comes as city officials anxiously await the Environmental Protection Agency's approval of plans for South Terminal. Officials hope the terminal, which is being specifically built for wind turbine staging, will create jobs in New Bedford. Cape Wind has promised to use the terminal if it is completed on time.
- Mayor Jon Mitchell visited the barge Tuesday, and said he hoped Cape Wind's using New Bedford for this project is a sign of more cooperation down the road."
- 10/26/12 In a letter from Quonset Point /Development Corporation:
- "Officials with the Cape Wind offshore wind project planned for Massachusetts have met with port officials in Rhode Island, and it's an 'open

question' whether a terminal planned for New Bedford will be ready to use as the wind farm's construction staging area.

Rodgers says they remain optimistic about New Bedford but permitting was slow for the planned \$35 million and they need to keep their options opened."

Quonset Development Corporation responded to an APNS FOIA and disclosed that there was a confidential Cape Wind meeting on 10/26/12.

11/09/12

New Bedford Standard Times article:

"Environmental Protection Agency approval of the widely touted South Terminal project is imminent, officials said this week, but its costs will likely run far higher than initially stated. The EPA will likely give the go-ahead to development of the 28.25 acre site within weeks, said Richard Sullivan, the state's Secretary of Energy and Environmental Affairs." It goes further to say that the 2010 estimate was \$35 million and it now could cost as much as \$100 million.

11/09/12

Boston Globe article:

"Officials with the Cape Wind offshore wind project planned for Massachusetts have met with port officials in Rhode Island, and a spokesman say it's an 'open question' whether a terminal planned for New Bedford will be ready to use as the wind farm's construction staging area. Cape Wind spokesman Mark Rodgers tells the Associated Press on Friday that officials with Cape Wind and the port at Quonset met two weeks ago. He says among the topics they discussed was whether Quonset would be able to take on at least some work Cape Wind Planned in New Bedford if it can't be done there."

11/10/12

AP article:

Rhode Island's Gov. Lincoln Chafee met with officials from the Cape Wind:

"Chafee spokeswoman Christine Hunsinger, said Cape Wind has been assessing the capabilities of the state's ports at Quonset in North Kingstown and in Providence.

"The governor remains hopeful that at some point in the future, Cape Wind would be able to bring jobs and economic activity to Rhode Island." She told the AP.

Mark Rodgers : "An open question is whether it will be available for everything, or of the work is done in stages, ' he said. 'We're keeping our options open. We'd like to use New Bedford to the greatest extent we can, but it depends on their availability."

- 11/19/2012 New Bedford Standard Times:
- “The South Terminal project cleared a major hurdle Monday, when the EPA announced its approval of a port facility hailed by officials as the most promising economic development in the city for the last 50 years.”
- 12/05/12 Article in WWLP:
- “Two weeks ago, in announcing federal environmental approvals had been granted for the project, the Patrick administration placed the project’s cost at \$100 million and project proponents touted its potential to serve the offshore wind industry with less of a focus on jobs specific to the Cape Wind project, which has been in the planning phases for more than a decade in the midst of constant opposition from its critics
- 12/14/12 Cape Cod Times article:
- “The state is now accepting bids from contractors interested in the South Terminal project, Massachusetts Clean Energy Center CEO Alicia Barton McDevitt said.
- “The port development project, which could cost as much as \$100 million, is on an accelerated timetable, with officials scrambling to finish the site so that it can serve as a staging area for Cape Wind, the presumptive first tenant.”
- 01/10/13 New Bedford Standard Times:
- “A 10-person offshore wind advisory committee will help steer the city in how to capitalize on the still-developing offshore wind industry, which the mayor calls the single-largest economic development opportunity in decades. ‘This is all ready with a view toward the future-not just the Cape Wind project but really the much larger development of an industry along our coast of which New Bedford is the industrial center,’ Mitchell said announcing the committee Wednesday. ‘Our goal ultimately is to maximize job opportunities for folks living in the city of New Bedford. Members of the panel, which will work with the city’s Economic Development Council, are: Cape Wind President Jim Gordon, Deepwater Wind CEO Jeff Grybowski, Fishermen’s Energy President Daniel Cohen...’
- 1/31/12 New Bedford Standard Times article:
- “Leaders in the offshore wind energy industry Wednesday discussed the importance of using specific projects such as Cape Wind as a platform for developing the entire American offshore wind business... Chief among

these components is New Bedford's South Terminal, which has been specially designed to accommodate the deployment, construction and assembly of offshore wind turbines."

2/16/13

New Bedford Standard Times article:

"Tax credits complicate Cape Wind, South Terminal schedule...Cape Wind May not be able to wait for the completion of South Terminal in order to start construction if it wants to take advantage of the federal tax credits, according to state officials.", according to an article in the New Bedford Standard Times on 2/16/13, In order to qualify for the extended production and investment tax credits that federal lawmakers passed in early January, construction for wind-energy projects must begin by January 1, 2014. "The South Terminal project, which is meant to be a staging area for Cape Wind construction, is scheduled to be completed by the end of 2014.

2/18/13

North American Windpower article:

3 Bids are received for construction of the South Terminal in New Bedford.

2/21/13

Forbes Magazine article *In a Bold Move, Massachusetts Stakes Out Its Role in US Offshore Wind Development*, discusses the proposed South Terminal in new Bedford and the timing of construction and completion with regards to Cape Wind's intent to use this facility.

3/5/13

South Coast Today article:

"The City Council has approved the transfer of several city-owned waterfront properties in an important step forward in the South Terminal project that could garner the city additional funds.

After lease discussions with the state, Mayor Jon Mitchell submitted an order Feb. 27 for the council to approve transferring 8 acres to the New Bedford Redevelopment Authority for a total of 19 acres to be leased to the state for the \$100 million project."

3/6/13

South Coast Today article:

Health concerns aired at South Terminal meeting.

"With the state poised to announce a contractor for the South Terminal project before construction starts in April, some residents want health and environmental concerns addressed in a city long plagued with such issues.

Bill White, director of offshore wind development at the Massachusetts Clean Energy Center, said the center is committed to continuing monthly meeting-to be held at the library the first Tuesday of every month-which would include the contractor who wins the bid, to put the project in context, update its status and address problems."

3/15/13

South Coast Today article:

"Business leaders from across the city are pulling together to raise \$750,000 over the next three years in an effort to make New Bedford a launching pad of the wind power revolution...

Shultz said the federal government will put \$100 million toward the infrastructure needs of the South Terminal-a facility that will be the first in the US to support the construction. Assembly and deployment of the offshore wind farms. But the federal money doesn't account for the marketing, he said."

3/22/13

New Bedford Standard Times article:

"In his state of the City address, Mayor Jon Mitchell painted a picture of a city that has made progress and is on the verge of even greater success, especially when it comes to offshore wind development."

5/6/13

South Coast Today article:

"After 12 years, Cape Wind is hoping to build the country's first offshore wind project off Nantucket, and New Bedford is ramping up to be the shore sidebase for the job.

City and state dignitaries marked the start of construction for the planned New Bedford Marine Commerce Terminal during a ground breaking ceremony Monday."

"Governor Deval Patrick broke ground on the port project Monday, and expected it is to be completed later this year. In addition to Cape Wind, the US Department of Energy estimates that the burgeoning offshore wind industry could create 43,000 jobs nationwide, many of which the administration believes could be tie-ins to the port of New Bedford."

5/8/13

South Coast Today article:

“The state's top environmental and energy official said today he's “absolutely convinced” that the South Terminal in New Bedford will be the primary staging area for Cape Wind, despite the offshore wind farm's developers exploring other options in Rhode Island.

The port project, also known as the New Bedford Marine Commerce Terminal, was announced in 2010 as a coup for the SouthCoast fishing port that would bring hundreds of immediate and long-term jobs to the city. Since then, Cape Wind developers have met with officials in Rhode Island to discuss the possibility of using the port of Quonset, in North Kingstown, R.I., for some staging work.

“I am absolutely convinced that New Bedford will be the primary staging port for Cape Wind and future developments that are not Cape Wind related,” Secretary of Energy and Environmental Affairs Richard Sullivan told the State House News Service.

Sullivan testified before the House Bonding Committee, chaired by New Bedford Democrat Rep. Antonio Cabral, on the Patrick administration's \$911 million bond bill for environmental and energy capital spending that includes roughly \$24 million for the South Terminal project.

The new port is expected to cost \$100 million, including permitting and design, construction, the dredging of the harbor and environmental remediation and mitigation to clean the polluted waters of the harbor and reseed the impacted shellfish population.”

5/30/13

From an article in Commonwealth Magazine:

“The state is moving ahead with plans to invest \$100 million in a marine commerce terminal in New Bedford, which would serve as a staging area for Cape Wind and other offshore wind projects as well as a container facility. But O’Connell worries that the state is pushing ahead with the terminal with no guarantee that Cape Wind will end up using it or that other offshore wind projects will ever get built. ‘What’s the business plan for the investment?’

Mark Rodgers, a spokesman for Cape Wind, said the wind farm would like to use the New Bedford terminal but has to keep its options open in case the terminal is not completed on time. ‘We would like to use it for Cape Wind and for the future offshore wind farms we hope to develop. Our ability to use it specifically for Cape Wind will depend upon their completing the facility on time.’”

6/19/13

South Coast Today article:

"Cape Wind's federal permits list Quonset, RI, as the staging area for its planned 130 turbine wind farm to be located in Nantucket Sound.

The offshore wind developer has said publicly it will use New Bedford's South Terminal to stage its materials and equipment provided the port facility is completed with its 19-month timetable.

In order to use the new facility, Cape Wind would need to revise its construction plan with the federal Bureau of Offshore Energy Management, something it has not done yet.

Cape Wind is holding its cards close to its vest, with spokesman Mark Rodgers saying only that 'We are continuing to closely monitor the South Terminal project.'

8/18/13

South Coast Today article:

"South Terminal's construction is just one step if many city and state officials are taking to ready New Bedford for the offshore wind energy. Mayor Jon Mitchell said the city is working to be the hub for the industry by being home to an entire 'supply chain' that could assist not just Cape and DeepWater Wind, both whatever projects follow them."

9/7/13

South Coast Today article:

"Representatives from both Cape Wind and DeepWater have previously said they will use New Bedford's South Terminal as a staging area for their projects in some capacity. Cape Wind has said it will use the facility if it is constructed on time, but currently lists Rhode Island's Quonset Point as the staging area on its federal permits. DeepWater Wind has committed to use Quonset for part of its project, but told The Standard Times in August it would most likely need to use South Terminal as a second port."

12/30/13

New Bedford Standard Times article:

In 1920 Congress passed the Jones Act, which protects maritime merchants, by requiring vessels transporting cargo or equipment between two US points to be American flagged and manufactured.

Weeks Marine is building a vessel to meet the challenges that exist here in the US.

"The barge will also have racks to hold turbine blades. The company hopes

to use the vessel for Cape Wind and therefore needs to be able to fit the barge through New Bedford's hurricane barrier, Palmer said."

3/14/14

WCAI article/broadcast:

An article updates the New Bedford Harbor cleanup and the construction of South Terminal:

"With cleanup complete, workers are focusing on building and reinforcing the terminal itself. The facility mostly will assemble and deploy offshore wind turbine components. And the first customer is expected to be Cape Wind. Each of Cape Wind's 130 turbines will have 3 blades, each measuring about 160 feet."